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103D CONGRESS
1ST SESSION

H. R. 286

To amend the Public Health Service Act to facilitate the entering into of cooperative agreements between hospitals for the purpose of enabling such hospitals to share expensive medical or high technology equipment or services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mrs. MORELLA introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To amend the Public Health Service Act to facilitate the entering into of cooperative agreements between hospitals for the purpose of enabling such hospitals to share expensive medical or high technology equipment or services, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hospital Cooperative Agreement Act''.

SEC. 2. PURPOSE.

It is the purpose of this Act to encourage cooperation between hospitals in order to contain costs and achieve a more efficient health care delivery system through the elimination of unnecessary duplication and proliferation of expensive medical or high technology services or equipment.

SEC. 3. HOSPITAL TECHNOLOGY AND SERVICES SHARING DEMONSTRATION PROGRAM.

Part D of title VI of the Public Health Service Act (42 U.S.C. 291k et seq.) is amended by adding at the end thereof the following new section:

"SEC. 647. HOSPITAL TECHNOLOGY AND SERVICES SHARING DEMONSTRATION PROGRAM.

''(a) ESTABLISHMENT.—The Secretary shall establish a demonstration program under which the Secretary shall in fiscal year 1994 award ten 5-year grants to eligible applicants to facilitate collaboration among two or more hospitals with respect to the provision of expensive, capital-intensive medical technology or other highly resource-intensive services. Such program shall be designed to demonstrate the extent to which such agreements result in a reduction in costs, an increase in access to care, and improvements in the quality of care with respect to the hospitals involved.

''(b) ELIGIBLE APPLICANTS.—

''(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), an entity (or entities) shall be a licensed hospital (or hospitals) and shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

''(A) a statement that such hospital (or hospitals) desires to negotiate and enter into a voluntary cooperative agreement under which such hospital (or hospitals) is operating in one State or region for the sharing of medical technology or services;

''(B) a description of the nature and scope of the activities contemplated under the cooperative agreement;

''(C) a description of the financial arrangement between the hospitals that are parties to the agreement; and

''(D) any other information determined appropriate by the Secretary.

''(2) DEVELOPMENT OF EVALUATION GUIDELINES.—Not later than 90 days after the date of enactment of this section, the Administrator for Health Care Policy and Research shall develop eval-

uation guidelines with respect to applications submitted under paragraph (1).

''(3) EVALUATIONS OF APPLICATIONS.—The Secretary, in consultation with the Administrator for Health Care Policy and Research, shall evaluate applications submitted under paragraph (1). In determining which applications to approve for purposes of awarding grants under subsection (a), the Secretary shall consider whether the cooperative agreement described in each such application meets guidelines developed under paragraph (2) and is likely to result in—

''(A) the enhancement of the quality of hospital or hospital-related care;

''(B) the preservation of hospital services in geographical proximity to the communities traditionally served by the applicant hospital (or hospitals);

''(C) improvements in the cost-effectiveness of high-technology services by the hospitals involved;

''(D) improvements in the efficient utilization of hospital resources and capital equipment;

''(E) the provision of services that would not otherwise be available; or

''(F) the avoidance of duplication of hospital resources.

''(c) ALLOCATION OF GRANT FUNDS.—

''(1) IN GENERAL.—Amounts provided under a grant awarded under subsection (a) shall be used only to facilitate collaboration among hospitals and may not be used to purchase facilities or capital equipment. Such permissible uses may include reimbursements for the expenses associated with specialized personnel, administrative services, support services, and instructional programs.

''(2) GRANT AWARD AMOUNT.—Hospitals applying for grants under subsection (a) shall specify the desired grant award amount. The Secretary shall determine the appropriate amount in granting such awards.

''(3) CARE IN RURAL AREAS.—

''(A) IN GENERAL.—Not less than three of the grants awarded under subsection (a) shall be used to demonstrate the manner in which cooperative agreements of the type described in such subsection may be used to increase access to or quality of care in rural areas.

''(B) DEFINITION.—As used in subparagraph (A), the term 'rural areas' means those areas located outside of metropolitan statistical areas.

''(d) MEDICAL TECHNOLOGY AND SERVICES.—

''(1) IN GENERAL.—Cooperative agreements facilitated under this section shall provide for the sharing of medical technology or eligible services among the hospitals which are parties to such agreements.

''(2) MEDICAL TECHNOLOGY.—For purposes of this section, the term 'medical technology' includes the drugs, devices, equipment and medical and surgical procedures utilized in medical care, and the organizational and support systems within which such care is provided, that—

''(A) have high capital costs or extremely high annual operating costs; and

''(B) are technologies with respect to which there is a reasonable expectation that shared ownership will avoid a significant degree of the potential excess capacity of such service in the community or region to be served under such agreement.

''(3) ELIGIBLE SERVICES.—With respect to services that may be shared under an agreement entered into under this section, such services shall—

''(A) either have high capital costs or extremely high annual operating costs; and

''(B) be services with respect to which there is a reasonable expectation that shared ownership will avoid a significant degree of the potential excess capacity of such services in the community or region to be served under such agreement.

Such services may include mobile services.

''(e) TERM.—The demonstration program established under this section shall continue for a term of 5 years.

''(f) REPORTS.—

''(1) IN GENERAL.—Grantees shall submit annual reports to the Secretary containing information on the demonstration projects funded under this section, as required by the Secretary.

''(2) TO CONGRESS.—On the date that occurs 5 years after the establishment of the demonstration program under this section, the Secretary shall prepare and submit to the appropriate committees of Congress, a report concerning the potential for coop-

erative agreements of the type entered into under this section to—

''(A) contain health care costs;

''(B) increase the access of individuals to medical services; and

''(C) improve the quality of health care.

Such report shall also contain the recommendations of the Secretary with respect to future programs to facilitate cooperative agreements.

''(g) RELATION TO OTHER LAWS.—

''(1) IN GENERAL.—Notwithstanding any provision of the antitrust laws, it shall not be considered a violation of the antitrust laws for a hospital to enter into, and carry out activities under, a cooperative agreement in accordance with this section.

''(2) DEFINITION.—For purposes of this subsection, the term 'antitrust laws' means—

''(A) the Act entitled ''An Act to protect trade and commerce against unlawful restraints and monopolies'', approved July 2, 1890, commonly known as the ''Sherman Act'' (26 Stat. 209; chapter 647; 15 U.S.C. 1 et seq.);

''(B) the Federal Trade Commission Act, approved September 26, 1914 (38 Stat. 717; chapter 311; 15 U.S.C. 41 et seq.);

''(C) the Act entitled ''An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes'', approved October 15, 1914, commonly known as the ''Clayton Act'' (38 Stat. 730; chapter 323; 15 U.S.C. 12 et seq.; 18 U.S.C. 402, 660, 3285, 3691; 29 U.S.C. 52, 53); and

''(D) any State antitrust laws that would prohibit the activities described in paragraph (1).

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,500,000 for each of the fiscal years 1994 through 1998. Any appropriation pursuant to the preceding sentence shall be subject to section 601 of the Congressional Budget Act of 1974 (relating to discretionary spending limits).

''(i) EFFECTIVE DATE.—If the Agency for Health Care Policy and Research fails to establish guidelines pursuant to subsection (b)(2), the Secretary shall award grants under this section based on the criteria contained in subsection (b)(3).''.

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